

108 FERC ¶ 61,211
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suede G. Kelly.

Dominion Cove Point LNG, LP

Docket No. RP04-428-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITION AND
ESTABLISHING A TECHNICAL CONFERENCE

(Issued August 27, 2004)

1. On July 30, 2004, Dominion Cove Point LNG, LP (Cove Point) filed revised tariff sheets¹ to reinstate its liquefied natural gas (LNG) inventory transfer provisions in section 11 of its General Terms and Conditions (GT&C) it asserts were inadvertently removed by an earlier, unrelated filing. This order accepts the proposed tariff sheets to be effective August 30, 2004, subject to condition and establishes a technical conference to address the concerns of its customers. This order benefits customers by establishing procedures to ensure that Cove Point's tariff language is just and reasonable.

Details of Filing

2. Cove Point is proposing to reinstate section 11 of its GT&C which allows a customer to transfer its stored LNG inventory under its Rate Schedules LTD-1, LTD-2, FPS-1, FPS-2, and FPS-3 to a different customer's account. Cove Point asserts that these provisions were inadvertently deleted from Cove Point's tariff when Cove Point modified section 10 of its GT&C in a filing in Docket No. RP03-545-000.² Under section 11, to request a transfer, both the transferor and the transferee must send a completed inventory transfer request form to Cove Point via fax or mail. Within two business days of receipt of the executed form, Cove Point will notify the parties of the acceptance or rejection of the transfer request. Cove Point may reject the request if it determines that the transfer cannot be accommodated: (1) without diminishing Cove Point's ability to provide firm

¹ Fourth Revised Sheet No. 200 and Original Sheet No. 250A to FERC Gas Tariff, Original Volume No. 1.

² See Dominion Cove Point LNG, LP, 106 FERC ¶ 61,226 (2004).

service to any customer, (2) without increasing Cove Point's firm obligations, (3) because the LNG sought to be transferred is not available in the customer's account, (4) because of an imbalance status of either customers accounts, or (5) because the requested transfer is retroactive. The tariff language proposed by Cove Point in the instant filing is identical to that language which it states was inadvertently deleted in its filing in Docket No. RP03-545-000.

Public Notice and Interventions

3. Public notice of Cove Point's filing was issued on August 3, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.³ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, all timely motions to intervene and all motions to intervene out of time filed before the issuance of this order are granted.⁴ Granting late intervention will not disrupt the proceeding or place additional burdens on existing parties. The LTD-1 Shippers, consisting of Shell NA LNG LLC, BP Energy Company, and Statoil Natural Gas LLC, filed a joint protest in this proceeding.

4. The LTD-1 Shippers state that the tariff language that Cove Point is proposing to reinstate was included in its tariff in 1995, prior to the widespread use of technology permitting instant transfers of information. The LTD-1 Shippers assert that the requirement of two business days before providing the parties with notification of a requested inventory transfer is an obstacle to the efficient, market driven transactions that the Commission has promoted. The LTD-1 Shippers state that Cove Point has offered no justification for requiring two business days to process an inventory transfer request. Since all parties to the transfer are already customers of Cove Point, they assert that there should be no need for Cove Point to evaluate whether the customers meet Cove Point's creditworthiness requirements. In addition, the LTD-1 Shippers state that, since the LNG inventories are already in Cove Point's LNG storage facility, all that occurs is a transfer in title to a specified quantity of LNG in storage. The LTD-1 Shippers argue that, in light of today's communications technology and the speed with which the market moves, requiring two business days for approval of such transfers is unreasonable. Therefore, in order to bring Cove Point's tariff provision into alignment with current industry practices, the LTD-1 Shippers assert that the Commission should require Cove Point to allow its customers to engage in inventory transfers at the next available nomination cycle.

³ 18 C.F.R. § 154.210 (2004).

⁴ 18 C.F.R. § 385.214 (2004).

5. The LTD-1 Shippers also state that Cove Point's proposal is not consistent with Commission precedent. The LTD-1 Shippers state that the Commission has ruled that transfers of gas in storage are only paper transactions that do not require actual movements of gas, leave overall storage inventories intact, do not upset historic operations and that new storage rights, after transfers, can be easily calculated using today's computer systems.⁵

6. LTD-1 Shippers also argue that the Commission has addressed these matters as they related directly to Cove Point's predecessor in title, Cove Point LNG Limited Partnership. The LTD-1 Shippers state that in Cove Point's transmittal letter to its Order No. 587-O compliance filing, Cove Point stated that it was making upgrades to its Electronic Bulletin Board - related software to provide for pooling and TTT services with an anticipated in-service date of July 1, 2003. According to the LTD-1 Shippers, Cove Point should be in a position to respond to requests for transfers of LNG inventory promptly, *i.e.*, in the next nomination cycle.

7. The LTD-1 Shippers also argue that Cove Point's approach to a straightforward transfer of LNG inventory is outdated and will hinder market-driven LNG transactions. The LTD-1 Shippers state that the Commission has accomplished this by requiring less onerous tariff provisions in areas such as capacity release, penalty assessment and imbalance management. The LTD-1 Shippers further state that reducing the unreasonably long amount of time afforded to Cove Point to process LNG inventory transfer requests would be consistent with the Commission's pro-competitive policies, and would facilitate customers' ability to coordinate gas transfers with necessary corollaries to gas transportation and marketing, such as capacity release, which is available on shorter notice than two business days.

8. The LTD-1 Shippers also assert that Cove Point's two-business-day standard is inconsistent with more customer-friendly provisions found in other FERC Gas Tariffs, which enable customers to transfer inventories through the use of title transfer tracking services.⁶ The LTD-1 Shippers state it is common practice among interstate natural gas

⁵ *Citing* Texas Eastern Transmission Corp., 62 FERC ¶ 61,015 at 61,079-80 (1993); Equitrans, Inc., 63 FERC ¶ 61,009 at 61,059 (1993).

⁶ *Citing* Southern LNG's Tariff, section 9 of Rate Schedule LNG-1 and Trunkline LNG's Tariff, Paragraph 4.4(B) of the GT&C.

storage facility operators to allow transfers of storage inventory consistent with the North American Energy Standard Board (NAESB) guideline nominations within the day, thereby enabling intra-day title transfers.⁷

9. Finally, the LTD-1 Shippers state that section 11(b) of the proposed tariff provision would continue the requirement that inventory transfer requests be submitted by fax or mail to the operator. They assert that mandatory use of these communication devices is not consistent with the electronic communications methods available to Cove Point's customers for other functions and, therefore, its tariff should be revised to specify that Cove Point's scheduling system and e-mail are acceptable means of providing Cove Point with inventory transfer requests.

Answer of Cove Point

10. On August 18, 2004, Cove Point filed an answer to the LTD-1 Shippers' protest.⁸ Cove Point states that the issue here is not the speed with which the information is transferred; rather, it is the consideration necessary to ensure that inventory is transferred consistent with both sound operating requirements and parties' service entitlements under Cove Point's tariff. Cove Point points out that section 11(c) provides that it may reject a proposed inventory transfer for any of five separate reasons. Cove Point also states that this provision was revisited upon the recent reactivation of the import terminal and was part of the January 1, 2001 settlement filed with and approved by the Commission. Cove Point claims that each of the LTD-1 Shippers was a party to that settlement and agreed that the tariff provision is appropriate for service following reactivation.

11. Cove Point states that it needs more time to evaluate requests to transfer inventory than the other LNG terminal operators cited by the LTD-1 Shippers. Cove Point notes that Southern LNG has only one customer and Trunkline LNG only two, and those LNG terminals allow inventory transfers only between those taking service under a single rate schedule. Cove Point states that it offers ten, five and three day firm peaking rate schedules each having different characteristics and limitations on the receipt of quantities for injection, the duration of storage permitted, and the timing of nominations for

⁷ The LTD-1 Shippers list the following interstate storage companies offering inventory transfers that comply with the NAESB standards: ANR Storage Company, Petal Storage Company, Blue Lake Gas Storage Company, and Young Storage Company.

⁸ While the Commission's Rules of Practice and Procedure generally prohibit answers to protests, the Commission will accept the answer to provide a better understanding of the issues in the proceeding. 18 C.F.R. § 385.213(a)(2) (2004).

withdrawal of LNG. Cove Point states that, given the greater complications associated with its services, a two-business day response time for proposed inventory transfers, particularly from one rate schedule to another, is reasonable.

Discussion

12. Cove Point initiated this filing as a ministerial filing to reinstate tariff provisions that were erroneously deleted from its tariff. Thus, Cove Point's proposed tariff language is identical to that which was accepted as part of its certificate application to recommission its LNG import facilities.⁹ However, the LTD-1 Shippers have raised issues as to whether this tariff language is consistent with current Commission policies concerning title transfer tracking, as well as the practices of other LNG terminals. As discussed below, although we will accept the subject tariff revisions since they merely reinstate previously-approved provisions unintentionally removed by an unrelated filing, the subject tariff sheets will be accepted subject to condition and to the outcome of a technical conference.

13. First, as pointed out by the LTD-1 shippers, section 11(b) only allows customers to submit Inventory Transfer Forms by fax or mail to Cove Point. The Commission agrees with the LTD-1 shippers that Cove Point should be able to accept these forms by other electronic means. Therefore, Cove Point is directed to revise its tariff to include the use of Cove Point's scheduling system and e-mail as a means of providing Cove Point with inventory transfer requests. Cove Point is directed to file tariff revisions consistent with this directive within 10 days of the issuance of this order.

14. Second, the LTD-1 Shippers have also raised issues and concerns regarding the two-business day approval requirement of section 11 that warrant further examination. The Commission concludes that it would benefit the parties and the Commission to convene a technical conference to collect additional information and further inquiry into this issue. Accordingly, the Commission directs staff to convene a technical conference on the issues raised regarding the two-business day approval requirement of section 11 of Cove point's tariff and to report back to the Commission within 120 days.

15. Accordingly, the Commission will accept Cove Point's proposed tariff sheets and will permit them to take effect August 30, 2004, subject to the condition set forth above and to the outcome of the technical conference established herein.

⁹ Cove Point LNG Limited Partnership, 97 FERC ¶ 61,043 (2001).

The Commission orders:

(A) Fourth Revised Sheet No. 200 and Original Sheet No. 250A to FERC Gas Tariff, Original Volume No. 1 are accepted, to be effective August 30, 2004, subject to the condition set forth in Ordering Paragraph (B) below and to the outcome of the technical conference established herein.

(B) Cove Point is directed to file revised tariff sheets consistent with the discussion set forth in the body of this order within 10 days of issuance of this order.

(C) Staff is directed to convene a technical conference to discuss the issues raised regarding the two-business day approval requirement of section 11 of Cove Point's tariff as discussed in the body of this order. Staff is directed to report the results of the technical conference to the Commission within 120 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.